

**75th MEETING**  
**OF THE**  
**MARYLAND HEALTH CARE COMMISSION**

**Thursday, July 21, 2005**

**Minutes**

Chairman Salamon called the meeting to order at 1:10 p.m.

Commissioners present: Crofoot, Ginsburg, Lucht, Moffit, Moore, Row, and Toulson

**ITEM 1.**

**Approval of the Minutes**

Commissioner Ernest Crofoot made a motion to approve the minutes of the June 16, 2005 meeting of the Commission, which was seconded by Commissioner Robert Moffit, and unanimously approved.

**ITEM 2.**

**Update on Commission Activities**

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

Dr. Rex Cowdry, Executive Director, announced that Bruce Kozlowski had recently been hired as the new Deputy for Performance and Benefits, and would attend the next Commission meeting. He also spoke about progress in the small group health insurance review, indicating that an open public meeting had been conducted during a working session of the Commission to look at small group market issues and alternatives that addressed health care costs and their drivers, the affordability of health insurance and modified community rating. He noted that the Commission must develop both a long term and short term strategy, the short term issue being the redesign of the Plan so the average premium falls under the 10% affordability cap set by the General Assembly and the long term issue being how to enhance competition, improve affordability and reduce costs. Staff will develop a draft of both strategies and present it to the Commission at the September 15, 2005 public meeting.

Dr. Cowdry noted that the Commission is working with the Maryland Insurance Administration on a report concerning the affordability of the Comprehensive Standard Health Benefit Plan, which is due to the Legislature by the end of the year, and is also providing assistance to the Legislative Task Force on small group market insurance. He stated that the Commission is working with the Health Services Cost Review Commission to discuss the proper role the Commission could play to facilitate the development of health IT as it is one of the keys to controlling health care costs and quality. He also noted that an internal strategic planning process is underway for staff and that he would report back to the Commission.

Pam Barclay, Deputy Director, Health Resources, noted that two publications, “Long Term Care in Maryland: A Pocket Chartbook, 2005” and the annual report on licensed acute care hospitals were being released to the public that day. She said that the Chartbook contained updated tables and graphs showing trends in Maryland long term care utilization and comparing Maryland data with national data. She noted that both reports were available on the Commission’s website.

Ben Steffen, Deputy Director, Data Systems and Analysis, announced that the Long Term Care Survey will be released on July 25, 2005. He said that the survey gathers information on approximately 700 long term care facilities in the State, which is used in the Commission’s planning processes and the nursing home quality report card. The Commission is also partnering with the Board of Physicians in its release of the 2005 Physician Licensure Renewal Application on July 18, 2005. Mr. Steffen noted that the 2004 Dental EDI Guide was released and available on the Commission’s website.

Copies of the *Update* were made available on the documents table at the meeting and on the Commission's website at: <http://www.mhcc.state.md.us/mhccinfo/cmsnmtgs/updates/>.

### ITEM 3.

#### CERTIFICATE OF NEED (CON)

- **Metropolitan Washington Open Heart Surgery Review: Certificate of Need for the Establishment of an OHS/PCI Program in the Metropolitan Washington Regional Planning Area**

Chairman Salamon briefly reviewed the background to the Metropolitan Washington Cardiac Surgery Review. He noted that the Commission unanimously adopted a new Cardiac Surgery Chapter of the State Health Plan in February, 2004 and that that Chapter provides that the Commission may consider a new cardiac surgery program in a Regional Service Area when one or more existing programs in the area have not met the minimum volume standards for the past two consecutive years. The Chairman quoted the language of the Cardiac Surgery Chapter that “access to a cardiac program that consistently fails to meet minimum volume requirements is not considered access to a high quality cardiac surgery program.” He explained that under the State Health Plan, the Commission can approve the establishment of a new cardiac surgery program in a Regional Service Area projected to have stable or declining cardiac surgery utilization only if the Commission determines that the establishment of the new program will demonstrably benefit the service area population in access, quality, and/or cost effectiveness, and the value of that benefit is greater than any increased cost that may result from distributing the projected cardiac surgery cases over a larger number of programs in the region.

The Chairman noted that the Metropolitan Washington area was the only region in which cardiac surgery programs had failed to meet the minimum volume standard. Three hospitals from that area submitted applications for a Certificate of Need to initiate cardiac surgery and PCI services: Holy Cross Hospital, Southern Maryland Hospital Center, and Suburban Hospital. Two other hospitals were granted interested party status. Dimensions Healthcare System, the operator of Prince George’s Hospital Center, opposed the applications of Southern Maryland Hospital Center and Holy Cross Hospital. Washington Adventist Hospital opposed all three applications.

The Chairman further noted that Commissioner Larry Ginsburg served as the Reviewer in the matter and that on June 24, 2005, Commissioner Ginsburg issued his Recommended Decision,

recommending that the Commission grant a Certificate of Need to establish a new cardiac surgery and PCI program to Suburban Hospital.

Commissioner Ginsburg, in his opening remarks, stated that he had analyzed the three excellent proposals by the hospitals as well as the positions advanced by the interested parties. He found reasons to support each of the proposals. On balance, however, after analyzing the extensive record and hearing oral argument by the parties, he found Suburban Hospital to have the best proposal.

The Chairman noted that two applicants, Holy Cross Hospital and Southern Maryland Hospital Center, and one interested party, Washington Adventist Hospital, filed exceptions to the Recommended Decision. Responses to the exceptions were filed by Holy Cross Hospital, Southern Maryland, Suburban Hospital, Dimensions Healthcare, and Washington Adventist Hospital. The following representatives presented oral argument on the exceptions: Kevin Sexton, President of Holy Cross Hospital; Richard McAlee, counsel for Southern Maryland Hospital Center; Howard Sollins, counsel for Washington Adventist Hospital; Jack Tranter, counsel for Suburban Hospital; and Steven Sfekas, counsel for Dimensions Healthcare System.

Following the arguments on the exceptions, Commissioner Ginsburg stated that, having listened carefully to the exceptions, his recommendation remained unchanged. He briefly enumerated the reasons for his decision in favor of the Suburban Hospital application and made a motion that the Commission approve his recommendation that the Certificate of Need be issued to Suburban Hospital. Commissioner Ginsburg also noted that a correction should be made to page 104 of his Proposed Decision to remove the statement that Suburban Hospital has an eye trauma center. The motion to approve was seconded by Commissioner Crofoot.

Following discussion among the Commissioners, Chairman Salamon made a motion that the third condition on the CON for Suburban Hospital<sup>1</sup> requiring an annual report to the Commission evaluating outreach effectiveness, be amended to include documentation of Suburban's progress in obtaining new partners in Prince George's, Calvert, Charles, and St. Mary's Counties to collaborate on regional outreach efforts related to cardiovascular disease prevention and early diagnosis with particular emphasis on outreach to minority populations. He said that Suburban Hospital should also specify improvement targets and provide quantitative data documenting Suburban's progress in contacting and serving minority individuals. Commissioner Toulson asked that the word "care" be included along with "prevention" and "outreach". Commissioner Moore asked that the wording "outreach to minority populations" be altered due to the fact that African Americans are the majority in Prince George's County.

The Chairman's motion to amend Condition 3 was seconded by Commissioner Ginsburg, and unanimously approved. The Chairman called for a vote on Commissioner Ginsburg's motion as amended by reading the amended condition 3:

That the annual report will include Suburban Hospital's progress in obtaining new partners in Prince George's, Calvert, Charles, St. Mary's Counties to collaborate on regional outreach efforts related to cardiovascular disease prevention, early diagnosis, and care, with particular emphasis on outreach to

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<sup>1</sup> The Proposed Decision recommended that the CON be awarded to Suburban with certain conditions attached. Condition 3 required that Suburban annually submit a written report "that includes an evaluation of the effectiveness of the hospital's proposed regional outreach efforts related to cardiovascular disease prevention and early diagnosis program."

African American and other populations. The report shall also specify improvements, improvement targets, and provide quantitative data documenting Suburban's progress in contacting and serving African American and other minority individuals.

The motion to award a Certificate of Need to Suburban Hospital to establish a cardiac surgery and percutaneous coronary intervention program, as amended, was approved, with Commissioners Crofoot, Ginsburg, Moffit, Moore, Toulson, and the Chairman voting in favor of the motion, and Commissioners Lucht and Row voting against the motion. The CON was awarded to Suburban Hospital Center.

**ACTION: The application for Certificate of Need by Suburban Hospital, Docket No. 04-15-2134, to establish a cardiac surgery and percutaneous coronary intervention program is hereby APPROVED.**

- **St. Joseph's Nursing Home, Application for Certificate of Need for Renovation, Docket No. 05-03-2156**

Chairman Salamon said that St. Joseph's Nursing Home applied for a Certificate of Need for a construction/renovation project, which, in part, implements four already licensed and operational comprehensive care facility (CCF) waiver beds as an addition to its former 40-bed complement. He asked Rhoda Wolfe-Carr, Health Policy Analyst, to present the Staff Recommendation for Commission action. Ms. Wolfe-Carr said that St. Joseph's Nursing Home, located in the Catonsville section of Baltimore County, Maryland, submitted an application for the construction of a 21-resident room addition with nursing support space and the renovation of the existing nursing home, to provide a total of 44 comprehensive care beds accommodating four additional waiver beds. Ms. Wolfe-Carr noted that the project came to the Commission's attention after its completion. However, according to Ms. Wolfe-Carr, the project did undergo the same complete analysis by Commission staff as any other application by a nursing facility, and was required to meet all applicable review standards related to this type of long term care service. She said that based on this analysis, staff recommended approval of the construction/renovation project for the addition of four waiver beds at St. Joseph's Nursing Home in Catonsville with the following conditions: 1) St. Joseph's Nursing Home shall not develop or use any rooms with more than two beds per room as required by Approval Rule 10.24.03.04B(5)(b) and Standard 10.24.03.05A(7); and 2) St. Joseph's Nursing Home agrees to abide by the Memorandum of Understanding it has signed with Maryland Medical Assistance to serve at least 58.05% Medical Assistant patients. Commissioners Row and Toulson inquired about what efforts had been made to prevent similar problems in the future and Ms. Wolfe-Carr indicated that an educational visit to surveyors and coordinators at OHCQ had already been made. Commissioner Crofoot made a motion to approve the staff recommendation, which was seconded by Commissioner Row, and unanimously approved.

**ACTION: St. Joseph's Nursing Home – Renovation; Docket No. 05-03-2156, is hereby APPROVED.**

- **LifeBridge Health, Inc., Exemption from Certificate of Need for the Transfer of 5-CCF Beds**

Chairman Salamon said that LifeBridge Health, Inc. applied for a Certificate of Need for the transfer of five CCF beds from the Jewish Convalescent and Nursing Home to a Subacute Unit at Northwest Hospital Center. Again, he asked Ms. Wolfe-Carr to present the Staff

Recommendation for Commission action. Ms. Wolfe-Carr said that LifeBridge Health, Inc. and two of its subsidiaries, Northwest Hospital Center and the Jewish Convalescent and Nursing Home Society, Inc. requested an exemption from Certificate of Need review for a transfer of five comprehensive care facility beds between the two Baltimore County components of the LifeBridge merged asset system under the Maryland merger and consolidation rules. She said that after an analysis of the request for exemption from the CON review, staff found that the request was consistent with the State Health Plan standards and determined that the request to transfer five CCF beds met these standards. Staff recommended that the Commission find this action to be exempt from certificate of need review. Commissioner Row made a motion to approve the staff recommendation, which was seconded by Commissioner Toulson, and unanimously approved.

**ACTION: LifeBridge Health, Inc, Exemption from Certificate of Need for the Transfer of 5-CCF Beds, is hereby APPROVED.**

#### **ITEM 4.**

#### **POSTPONEMENT OF CONSIDERATION OF REQUEST FOR DECLARATORY RULING, Dimensions Health Corporation: Impact of Supplement 4 to the State Health Plan for Facilities and Services: Acute Care Hospital Services (COMAR 10.24.10) on the Status of the Bowie Hospital CON**

Chairman Salamon said that on May 25, 2005, Dimensions Health Corporation filed a Request for Declaratory Ruling. He said that in 1974, Dimensions' predecessor was granted a CON to construct a 176-bed hospital in Bowie. For various reasons, that hospital had never been constructed. Dimensions sought to have the Commission determine whether that CON is still valid. Commissioner Row has been appointed to be the Reviewer in this matter and will issue a Proposed Decision.

Chairman Salamon said that the Commission's procedural rules permit postponing consideration of the decision on a Request for Declaratory Ruling if the Commission votes in favor of a postponement. He recommended that the Commission vote to postpone consideration of the Petition for Declaratory Ruling until the September 15<sup>th</sup> meeting to provide additional time to consider this request and to formulate a proposed decision, given the long history of this issue.

Chairman Salamon made a motion to postpone consideration of the decision on the Request for Declaratory Ruling filed by Dimensions Health Corporation, which was seconded by Commissioner Crofoot, and unanimously approved.

**ACTION: Postponement of Consideration of Request for Declaratory Ruling, is hereby APPROVED.**

#### **ITEM 5.**

#### **ADJOURNMENT**

Chairman Salamon announced that there will be no meeting of the Commission in August and the next public meeting would be on Thursday, September 15, 2005 at 1:00 p.m. at 4160 Patterson Avenue, Room 102, in Baltimore, Maryland.

There being no further business, the meeting was adjourned at 3:45 p.m. upon motion of Commissioner Toulson, which was seconded by Commissioner Row, and unanimously approved by the Commissioners.